

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF ALASKA

3

4 RICHARD HELMS,

5 Plaintiff,

6 vs.

COPY

7 UNITED STATES OF AMERICA,

8 Defendant.

9 Case No. 3:11-cv-00186-SLG

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13 DEPOSITION OF RICHARD J. HELMS

14

15

16 Tuesday, November 5, 2013

17 9:58 a.m.

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21 Taken by Counsel for the Defendant
22 at
23 OFFICE OF THE UNITED STATES ATTORNEY
24 Federal Building, U.S. Courthouse
25 222 W. 7th Avenue, #9, Room 253
Anchorage, Alaska 99513

1 records"? Do you have those?

2 A. Yes. What I'm saying is I can print them
3 off from your disclosures to me.

4 Q. Oh, okay.

5 A. Yeah. I mean, I gave you the release. You
6 got all the medical records, including Dr. Ghose's
7 and everyone else's.

8 Q. That's fine.

9 But aside from those, you didn't have a
10 separate set of your own records to show?

11 A. No. And that's probably because they go to
12 my wife and not me.

13 Q. All right. I'm going to shift topics and
14 ask you some questions about the events in this case.
15 And I'll preface that by saying we're talking about
16 events that happened in August of 2008 out in Nome.
17 So, that if -- if I ask a question, unless I tell you
18 otherwise, that's the time period that I'm talking
19 about. I don't want to have to -- you know, I may
20 not restate every time "in August of 2008 when this
21 happened." So, you understand, I'm talking about
22 that time period unless I tell you otherwise?

23 A. Yes.

24 Q. All right. And specifically the date
25 that you went to the Norton Sound Hospital for care

1 for your, what later was determined your stroke
2 condition was August 29, 2008.

3 Do you recognize that date?

4 A. Yes.

5 Q. All right. And I looked at a calendar, and
6 that was a Friday.

7 Does that match understanding?

8 A. I think so, yes.

9 Q. All right. So I'm going to ask you some
10 questions about that.

11 With that as a preface, were you working in
12 Nome that week? You know, Monday to Friday in August
13 of 2008?

14 A. Yes.

15 Q. And where were you working?

16 A. At the Alaska Court System.

17 Q. Was Friday a workday for you?

18 A. Yes.

19 Q. And what was your normal workday at that
20 time?

21 A. If you're a law clerk, there is no normal
22 work day.

23 Q. But I mean normal for you.

24 A. But, yeah, 8:00, 8:00 to 4:30.

25 Q. Did you work that schedule or did you often

1 work later than 4:30?

2 A. Often later, yes.

3 Q. How about the day before, the Thursday
4 before you went to the Norton Sound Hospital; did you
5 work that day?

6 A. Yes.

7 Q. And do you remember what hours you worked
8 that day?

9 A. No, I don't. But 8:00 to 4:30 was the
10 normal schedule.

11 Q. And do you have any recollection that you
12 worked late into the evening that Thursday?

13 A. No, I don't.

14 Q. All right.

15 (Reporter requested clarification.)

16 BY MR. GUARINO:

17 Q. I asked you whether you recall working late
18 into the evening that Thursday night. I think your
19 answer was no.

20 A. No.

21 Q. What else did you do that Thursday? For
22 example, after you left work, do you remember what
23 you did that evening?

24 A. I don't have any specific recollection, but
25 I may have been working at or on my -- my garage on

1 my property.

2 Q. In Nome?

3 A. Yes.

4 Q. Was your wife at home at that time?

5 A. At what time?

6 Q. That Thursday. I'm talking about the
7 Thursday before you went to the hospital. Assuming
8 you went and -- you finished work and you then went
9 home and maybe you were working on your garage, was
10 your wife at home that Thursday?

11 A. Yes.

12 Q. Was anyone else with you at your home that
13 evening?

14 A. No.

15 Q. Do you have a recollection of going out
16 socially to any sporting event or any other outside
17 event that Thursday evening before you had your
18 stroke?

19 A. No.

20 Q. What time did you go to bed that evening?

21 A. I think probably around 9:30. And
22 that's -- I can't be sure, but I believe about 9:30
23 p.m.

24 Q. What time did you normally go to bed back
25 in August of 2008?

1 A. It varied. There was no --

2 Q. Would 9:30 have been early or...

3 A. Been early.

4 Q. Early.

5 All right. Did you wife go to bed with
6 you?

7 A. Yes.

8 Q. Up until the time you went to bed that
9 Thursday evening, did you notice any health problems
10 or difficulties?

11 A. No.

12 Q. And specifically, did you have any pain,
13 unusual pain condition, any vision problems, any
14 headaches, any pain in your jaw or your head,
15 anything like that?

16 A. No.

17 Q. So, as far as you knew, when you went to
18 bed that night, you were feeling all right?

19 A. Yes.

20 Q. Did you sleep through the night?

21 A. I did.

22 Q. And what time did you wake up?

23 A. 5:15.

24 Q. And I've seen references in the medical
25 records that when you woke up you noticed some pain

1 symptoms.

2 Is that true?

3 A. No, it's not.

4 Q. Oh, okay. What did -- what happened when
5 you woke up?

6 A. I've seen that reference.

7 I woke up at 5:15. This didn't start until
8 a half an hour later.

9 Q. So your testimony today is that you -- when
10 you woke up at 5:15, you were feeling okay?

11 A. Yes.

12 Q. And that your symptoms started about a half
13 hour later?

14 A. Started a half an hour later, yes.

15 Q. At 5:45?

16 A. Yes.

17 Q. And what were the symptoms when you first
18 noticed them?

19 A. Headache, a vision loss to my left, some
20 pain in my eye and in my face.

21 Q. Anything else?

22 A. I was a little bit dizzy and just didn't
23 feel well.

24 Q. And were you at home when you first noticed
25 these symptoms?

1 A. Yes.

2 Q. Was your wife up when you first noticed
3 these symptoms?

4 A. Yes.

5 Q. Had you ever felt those symptoms before?

6 A. No.

7 Q. After you noticed the symptoms, what did
8 you do?

9 A. I was on my way out the door anyway, so,
10 after I dropped my wife off at work, I went to the
11 hospital.

12 Q. Did you notice the symptoms before or after
13 you got dressed?

14 A. After I got dressed.

15 Q. And how long after the symptoms started did
16 you leave your house?

17 A. I was in the process of leaving.

18 Q. When you first noticed them?

19 A. Yes.

20 Q. So, literally, you were walking out the
21 door when these symptoms first hit you?

22 A. Well, I was in one room, I wasn't -- well,
23 I wasn't really walking out the door; I was in one
24 room --

25 Q. All right.

1 A. -- and I think I -- I guess I wasn't fully
2 dressed, because I was putting my shoes on, so...

3 Q. And so you were putting your shoes on, and
4 that's when you first noticed -- I don't want to go
5 through all the symptoms that you've talked about,
6 but you noticed all of these symptoms?

7 A. Yeah. They began in a -- sort of a
8 cascade, but, yes, as I was getting -- walking to get
9 my shoes, and we're going out the door, then that's
10 when they occurred.

11 Q. All right. And by the time you left your
12 house, had you experienced all of the symptoms?

13 A. Yes.

14 Q. And did you make the decision right then to
15 go to the hospital?

16 A. No. I didn't know what was happening. I
17 missed a left turn, which I couldn't see it. And,
18 then, as I was driving down the road, my wife said,
19 "We need to go to the hospital." And I said, "Well,
20 let me drop you off at work." And then we went to
21 the -- I went to the hospital.

22 Q. So you dropped your wife off at work.

23 Where did she work?

24 A. At the Anvil Mountain Correctional Center.

25 Q. How far a drive was that from your home?

1 A. Oh, it's -- oh, a couple miles, I think.

2 Q. How long did it take you to drive out to
3 drop her off?

4 A. A little bit under 15 minutes, probably.

5 Well, that's from the time you get in the car and I
6 missed the turn and went another way.

7 Q. Give me a -- approximately 15 minutes to
8 get there and drop her off?

9 A. Yeah. A little bit less than 15 minutes,
10 yes.

11 Q. All right. Did you stop anywhere along the
12 way?

13 A. No.

14 Q. After you dropped her off, did you go from
15 there to the hospital?

16 A. Yes.

17 Q. Did you stop anywhere along the way?

18 A. No.

19 Q. How long did it take you to get from your
20 wife's place of employment to the hospital?

21 A. I missed a turn, again. It took a little
22 bit over ten minutes, I think.

23 Q. All right. And before you got to the
24 hospital, did you -- other than your wife, did you
25 talk to anyone else?

1 A. No.

2 Q. Did you make a phone call to anyone?

3 A. No.

4 Q. Did you take any medication during that
5 period?

6 A. No.

7 Q. Did you eat or drink anything?

8 A. No.

9 Q. So you woke up, you got dressed, you took
10 your wife to work, and you went to the hospital, but
11 you didn't have any breakfast or any food before you
12 left the house?

13 A. No.

14 Q. Was that unusual?

15 A. No, not -- not for that day.

16 Q. Okay. And when you went to the hospital,
17 you parked your car and walked into the building?

18 A. I did, yes.

19 Q. Was there anyone with you when you
20 presented at the Norton Sound Hospital?

21 A. No.

22 Q. Were you still feeling the symptoms that
23 you -- from the time they started, when you were at
24 your house, until you arrived at the hospital, did
25 you feel the symptoms that whole time?

1 A. Yes.

2 Q. Did they get better, worse, or stay the
3 same?

4 A. Worse.

5 Q. And how did they get worse? Tell me what
6 got worse.

7 A. The pain got worse in my eye and my face,
8 and my visual deficit and the dizziness became more
9 pronounced, and I also started feeling nauseous.

10 Q. And all of that happened before you got to
11 the hospital?

12 A. Not so much the nausea. That happened a
13 little bit later.

14 Q. But the other symptoms got worse; the pain,
15 the vision disturbance, and the dizziness got worse
16 as you -- from the time you first noticed them until
17 you got to the hospital?

18 A. Yeah. I'd say the chief complaint was my
19 vision loss to the left. I really didn't know what
20 was going on. And then it was a headache, which I
21 was told was a migraine headache, atypical headache.

22 I'd never had a migraine headache before,
23 so...

24 Q. And what time did you get to the hospital?

25 A. I think about ten after 6:00.

1 Q. And so, if it took approximately 15 minutes
2 to get your wife to her work -- and what did you say;
3 ten to 15 minutes to get from there to the hospital?

4 A. A little bit over ten; about ten, yeah.

5 Q. All right. So approximately a half hour,
6 sometime in that range, from the time when you first
7 noticed symptoms until you arrived at the hospital?

8 A. I think that's fair, yeah.

9 Q. And so, if you arrived at the hospital at
10 6:10, then working back, sometime between -- let's
11 say sometime about twenty of 6:00 is when you would
12 estimate you first started feeling these symptoms?

13 A. A quarter till, yeah.

14 Q. So you were up -- if you were up at 5:15,
15 you -- your testimony today is you were up for maybe
16 20 to 30 minutes before you started feeling these
17 symptoms?

18 A. A half an hour, yeah.

19 Q. Okay. And what happened after you got to
20 the hospital? What did you do?

21 A. I met a nurse, told her what was going on,
22 and she brought me into the very small emergency
23 room. And, then -- yeah, I was met by -- by the
24 nurse, and I told her what was going on.

25 Q. And then what happened after that? You

1 went to this small room. And did you see someone
2 there?

3 A. Well, yeah, the nurse was there and started
4 to take some medical history from me.

5 Q. Okay. All right. And let me start
6 this.... I'm going to -- I'm going to have an
7 exhibit. It will be marked as Exhibit 2, and it will
8 have a number of medical records in it. So I'm going
9 to keep adding to this exhibit as we go.

10 So let's start with this record here.

11 (Exh 2 marked.)

12 BY MR. GUARINO:

13 Q. Mr. Helms, I'm going to ask you some
14 questions about -- and I'll give you the opportunity
15 to look at that record, but I've got some preliminary
16 questions.

17 Do you recall the name of the nurse
18 that you saw when you first went into the hospital?

19 A. No.

20 Q. Did you know that nurse before you saw her
21 that day?

22 A. No. Well, I think I'd seen her around the
23 hospital.

24 Q. And this nurse took you to an examination
25 room; is that correct?

1 A. Well, I walked into the ER, and the ER is
2 the -- it's got beds and curtains, so I was already
3 there. She didn't really have to take me very far.

4 Q. And after the nurse saw you, were you then
5 seen by Dr. Logan?

6 A. Yes.

7 Q. Did any other doctor see you?

8 A. No.

9 Q. And when Dr. Logan saw you, were you
10 standing or in a bed?

11 A. I was seated.

12 Q. Seated in a chair or on a bed?

13 A. I believe it was a gurney, yeah.

14 Q. All right. And if you take a look at the
15 first page of Exhibit 2 -- actually, if you look at
16 the -- the second page, do you see the -- the page is
17 listed "ADULT TRIAGE"?

18 A. Yes.

19 Q. All right. And it has the date, August 29,
20 2008. Do you see that?

21 A. Yes.

22 Q. All right. And the time that the nurse
23 indicated she had contact with you was 6:25?

24 A. Yes.

25 Q. All right. And looking at the nurse's

1 inaccurate when she wrote 6:25?

2 A. No. I think she wrote the time that she
3 started writing this.

4 Q. All right.

5 A. But I think there was some time between she
6 started writing and when I presented.

7 Q. All right. And the note she has is:

8 Sudden onset, right jaw and right eye pain,
9 disoriented.

10 Was that information correct?

11 A. It's not the chief complaint, but, yeah,
12 the information's correct.

13 Q. And what was your chief complaint?

14 A. My vision loss on my left side.

15 Q. All right. And then you saw Dr. Logan?

16 A. Yes.

17 Q. And do you recall your discussion with
18 Dr. Logan?

19 A. Yes.

20 Q. All right. Can you tell me what you
21 discussed with him?

22 A. First, it was the fact that Sarah Palin had
23 been selected as the Republican -- or might be the
24 Republican nominee -- or selection for John McCain.
25 That was when he first came into -- apparently he had

1 a conversation with the nurse prior, and he was
2 continuing it as he walked in to see me. Then I told
3 him what -- what was happening and why I came to the
4 ER.

5 Q. And what did you tell him?

6 A. I told him that I had this vision loss to
7 my left, that it just happened, and I had this
8 headache, and some eye pain, and some face pain, and
9 that I was dizzy.

10 Q. Anything else?

11 A. Well, later, when he asked me a question, I
12 said I was nauseous.

13 Q. What question did he ask you?

14 A. Are you nauseous.

15 Q. Oh, okay.

16 Any other questions that he asked you that
17 you can remember?

18 A. I put my hand up to my left-hand side of my
19 head and I wiggled my fingers, and I told him, "I
20 can't see my hand or my fingers, and I can see them
21 over here, but I can't see them over here." And he
22 walked to my left. And I don't remember his exact
23 words, but it was to the effect that, "Wow, that's
24 very pronounced," or, "that's a lot."

25 Q. Okay. Anything else that you can recall

1 that you told him or that he told you?

2 A. Well, I told him I'd never had a headache
3 before, and he said it was a migraine headache. And
4 then I told him it was sort of like a dishwasher
5 inside my head and --

6 Q. Did you use that -- that wording, did
7 you --

8 A. I did, yeah.

9 Q. Okay.

10 A. Because it was like a -- you know, a poorly
11 muffled or soundproofed dishwasher and it was going
12 on in my head and -- and I asked him if what I was
13 experiencing, as far as my visual problems to my
14 left, was related to that, and he said, "Yes, it's
15 related to migraine headaches."

16 Q. Okay.

17 A. And I said, "Well, I've never had a
18 migraine headache before." And so that was the
19 discussion with regard to that.

20 Q. Any --

21 A. And then he ordered the nurse to do a GI
22 cocktail, I think he called it.

23 Q. Before we get to what the nurse did,
24 anything else that you told him or any other
25 questions that he asked you?

1 Q. Right.

2 And then, below that, there's a -- there's
3 a block on the page that says, "Instructions to the
4 patient."

5 Do you see that?

6 A. Yes.

7 Q. All right. And did you go over this, these
8 instructions, with Dr. Logan?

9 A. No.

10 Q. So Dr. Logan didn't discuss the discharge
11 instructions with you?

12 A. No, the nurse did.

13 Q. All right. And which nurse did that?

14 A. Whichever nurse was there.

15 Q. You don't remember the name or anything?

16 A. I've seen Smith on documents. I -- I --
17 she was a very, very nice lady. I don't know --

18 Q. Okay.

19 A. -- who she is, though.

20 Q. The first instruction, number 1, was, "Go
21 home & sleep."

22 Is that what the nurse told you?

23 A. Yes.

24 Q. All right. And then the second instruction
25 said, "If eye pain continues after sleep return to

1 hospital for further evaluation."

2 Is that what the nurse told you?

3 A. No, she didn't tell me that. It's there,
4 though.

5 Q. Are you saying she wrote it down but didn't
6 tell it to you?

7 A. Yes. I mean -- but I read this.

8 Q. Well, let me be clear. This instruction
9 says that you were told, "If your eye pain continues
10 after sleep return to the hospital for further
11 evaluation." Are you saying they never told you
12 that?

13 A. They said to go to the eye clinic for --
14 for further evaluation.

15 Q. Okay. So, not return to the hospital,
16 return to the eye clinic for further...

17 A. Correct.

18 Q. Got it.

19 Is the eye clinic in the same building, or
20 was it in the same building, back in 2008?

21 A. Yes. I think it is, yes.

22 Q. It is?

23 A. Yeah.

24 Q. So your recollection is that if this had
25 been worded accurately, it would have stated that

1 they told you if your eye pain continues after sleep,
2 return to the eye clinic for further evaluation?

3 A. Right. Yeah, 2 and 3 were combined.

4 Q. Okay. And then number 3 says, "If visual
5 disturbances persist after sleep return for
6 ophthalmic evaluation"?

7 A. Yes.

8 Q. All right. And they did tell you that?

9 A. Yes.

10 Q. All right. And so they -- the general
11 instruction was, if your symptoms continued, after
12 you had a chance to sleep, that you should come back
13 to get further evaluation of your symptoms?

14 A. Yeah. At the eye clinic, the hospital's,
15 the all-encompassing term, everything's in it, so...

16 Q. Yeah. And I'm not going to debate which
17 part of the hospital you'd go to, whether it was a
18 clinic or the ER or some other area. But -- but,
19 basically, the message was, if the symptoms continue,
20 you should come back for further evaluation?

21 A. Yeah.

22 Q. All right. And underneath that there's a
23 line that says, "I understand the instructions as
24 explained to me." And you signed your signature
25 under that?

1 A. Yes.

2 Q. All right. What did you do after you were
3 discharged?

4 A. I called my office and left a note that
5 said I wouldn't be coming in, and then I went to
6 sleep.

7 Q. You went home?

8 A. Yes.

9 Q. Was your wife still at work?

10 A. Yes.

11 Q. And so you went back...

12 Did you do anything else on the way back
13 home? Did you stop anywhere?

14 A. No. I missed a turn, though --

15 Q. Okay.

16 A. -- all left-hand turns.

17 Q. And then -- but you drove directly home,
18 parked your car, went inside, and did you go directly
19 to bed?

20 A. Oh, yeah.

21 Q. How long did you sleep?

22 A. I don't really recall, but it was well into
23 the night.

24 Q. From the morning into the evening?

25 A. Yes.

1 Q. So do you know what time you got back home?

2 A. I think, about 8:10, 8:15.

3 Q. Okay. So, let's say, sometime between 8:15
4 and 8:45, you went to bed and went to sleep. And did
5 you sleep continuously until you woke up?

6 A. I may have gotten up and -- and threw up or
7 went to the bathroom, but, yeah, just -- I went back
8 to bed, just was out of it.

9 Q. From the time you left the hospital until
10 you went -- got home and went to sleep, were you
11 still having the symptoms?

12 A. Yes.

13 Q. You still having a headache?

14 A. Yes. The symptoms got worse, as I stayed
15 in the hospital. They kept me there until about
16 8:00. This says 7:55. It is really eight o'clock
17 on the other discharge thing. So, after eight
18 o'clock, I went home.

19 Q. And then after you left, did you still have
20 the headache?

21 A. Yes.

22 Q. Still have the visual disturbance?

23 A. Yes.

24 Q. Still have the eye pain?

25 A. Yes.

1 Q. Still have dizziness?

2 A. Yes.

3 Q. Did it -- did that get any worse, after you
4 left the hospital, between the time you left the
5 hospital and the time you went to sleep?

6 A. No. It got worse while I was at the ER,
7 and then it pretty much stayed the same.

8 Q. All right. And so you still had symptoms,
9 you went home, and you went to sleep. Were you able
10 to go to sleep?

11 A. Yeah. I mean, I laid in the -- laid in the
12 bed and -- yeah.

13 Q. Okay. How long did it take you to go to
14 sleep?

15 A. I don't recall.

16 Q. All right. And I want to try and follow
17 this pretty carefully. What time did you wake up?
18 And if you don't remember the exact time, can you
19 tell me, was it dark again when you woke up, was it
20 still light out when you woke up?

21 A. Well, it's August in Nome, so...

22 I may have woke up one or even more times
23 during that time, but I think it was after six
24 o'clock, after 6:00 p.m.

25 Q. When you woke up and finally got out of

1 bed, did you still have symptoms?

2 A. Yeah. They remained the same. Yes.

3 Q. All right. And what did you do next?

4 A. I think I went back to bed.

5 Q. Okay. At 6:00 p.m., you went back to bed
6 again?

7 A. A little hard to remember this long ago,
8 but it was -- I was in bed until my wife said, "Look,
9 we need to -- we need to go to Anchorage."

10 Q. Okay.

11 A. And --

12 Q. And was that still that -- we're still
13 talking the same Friday, the 29th? You went to the
14 hospital in the morning, you left at about 8:00 in
15 the morning, you went home, you went to sleep, and
16 now you're waking sometime later in the day, your
17 wife says, "Hey, we should go to Anchorage"?

18 A. Yeah. I don't remember when we went. It
19 would have had to have been a -- a flight. I don't
20 know which flight we were on.

21 Q. Well, let me -- let me take this up. Prior
22 to flying to Anchorage, did you ever go back to the
23 Norton Sound Hospital?

24 A. No.

25 Q. But you still had symptoms that you'd had

1 A. Okay.

2 Q. You didn't know what it was, but you
3 weren't certain that it was a migraine; you wanted to
4 get further evaluation?

5 A. Or to have it confirmed.

6 Q. All right. And so you decided that instead
7 of going back to Norton Sound, as you'd been
8 instructed to, you decided to go to Anchorage
9 instead?

10 A. I'll object to the form of that.

11 Q. Fine.

12 A. It's --

13 Q. I mean --

14 A. Yeah, I'll --

15 Q. -- no one -- in other words, no one forced
16 you to go to Anchorage; isn't that correct?

17 A. I've already answered the question.

18 I didn't know what was going on. Dr. Logan
19 said it was a migraine headache. I don't know. I
20 went to go seek some additional medical diagnosis,
21 and that's why I went to Anchorage.

22 Q. And all I'm trying to establish is, you
23 made the choice, that instead of going back to Norton
24 Sound, you chose instead to go to Anchorage to get
25 evaluated. Is that correct?

1 A. Yes. I'd already slept, like they said,
2 and now I was going to go to Anchorage.

3 Q. All right. And did you have a reservation
4 on that -- to go to Anchorage already, or
5 did you have to make a reservation?

6 A. I had a reservation.

7 Q. You had a reser -- and why did you have a
8 reservation?

9 A. I don't -- actually I don't know.... We
10 were going to go on vacation.

11 Q. And so you got on the plane. And was it
12 that evening that you flew to Anchorage?

13 A. I think it is. I'd have to look at the
14 record. I know I went into the emergency room on the
15 30th.

16 Q. Okay.

17 A. So I can't remember day or night or
18 whatever, but --

19 Q. Well, was -- let me ask you: Was the
20 flight from Nome to Anchorage an evening flight?

21 A. Yes. And that's why my wife said, "Let's
22 go to Anchorage."

23 Q. Okay.

24 A. "We already got the" -- "we already got the
25 ticket; let's go."

1 Q. So you flew to Anchorage sometime that
2 evening of the 29th?

3 A. I -- I believe so, yes.

4 Q. And I'm doing that from the medical
5 records. The medical records show you went to
6 Providence the evening of the 30th.

7 A. Oh, the evening of the 30th.

8 Q. Well, we can look at the records. I
9 believe that's it.

10 A. Well, then it may have been a day later,
11 then.

12 Q. Well -- but I'm trying to establish when
13 you left Nome.

14 A. Okay.

15 Q. You left Nome the evening of the 29th,
16 correct?

17 A. I don't know; I'll have to look.

18 Q. All right. But it was an evening flight
19 from Nome to Anchorage?

20 A. I'll have to look.

21 Q. All right. You don't recall.

22 How did you feel during the flight?

23 A. Really sick.

24 Q. Same, similar symptoms?

25 A. I was dry heaving and took a garbage bag

1 with me.

2 Q. What did you do when you got to Anchorage?

3 A. Went to Providence Hospital.

4 Q. Did you go immediately from the airport to
5 the hospital?

6 A. You know, I don't recall.

7 Q. Did you go from the airport to your home in
8 Anchorage?

9 A. I may have.

10 Q. Okay.

11 A. I may have actually went on the 29th, and
12 then -- and then went to Providence the next day.

13 I'm -- I'm not exactly sure.

14 Q. Well, let's leave aside when you went to
15 Providence. When you -- let's just go from the
16 events. When you flew from Nome to Anchorage, do you
17 have a recollection that you went from the airport in
18 Anchorage to your home in Anchorage?

19 A. I don't have a recollection.

20 Q. Do you recall --

21 A. I'd have to -- I'd have to take a look
22 at -- I don't remember, sitting here today.

23 Q. All right. Do you have a recollection
24 that you arrived in Anchorage in the evening?

25 A. I believe I did, yes.

1 Q. And so we'd have to know what time the
2 flight was that you took from Nome to figure out
3 approximately when you got to Anchorage that evening?

4 A. Yeah. I'll have to -- I don't know, off --
5 as I sit here, I can't recall. I just know that I
6 went to Providence Hospital, so...

7 Q. And do you have a recollection of anything
8 that you did, between the time you arrived in
9 Anchorage until -- and the time that you went to
10 Providence Hospital, anything that you did in that
11 intervening time?

12 A. I may have continued to sleep. I'm not
13 sure.

14 Q. Okay. Is it possible you went home and
15 slept some more --

16 A. Yeah.

17 Q. -- before you --

18 A. Yes, it is.

19 Q. Okay. And so, if that's the case, that you
20 may have gone from the Anchorage airport to your home
21 in Anchorage, slept for a while, and then, when you
22 woke up, then went to Providence Hospital?

23 A. Yes, that's possible.

24 Q. Do you know, when you got to Providence
25 Hospital, what time of day it was?

1 A. I'd -- I'd have to refer to the record.

2 MR. GUARINO: And add that to Exhibit 2.

3 (Exh 2 supplemented.)

4 BY MR. GUARINO:

5 Q. I'm showing you what's been -- what is
6 labeled as Providence Health System Emergency Record.

7 Do you see that, Mr. Helms?

8 A. Yes.

9 Q. And at the top, it says "Complaint" right
10 eye pain, and, "Triage Time" Saturday, August 30th,
11 2008, at 21:28.

12 Do you see that? Upper left-hand corner.

13 A. Saturday, August 30th, 21:28.

14 Q. Right.

15 In military time, that would have been 9:28
16 in the evening?

17 A. Yes.

18 Q. All right. So, so you saw Dr. Logan on
19 Friday morning, and you spent Friday day and into the
20 evening sleeping in Nome. And then is it likely that
21 you took an evening flight, that Friday evening, and
22 got to Anchorage late Friday evening, and then spent
23 Saturday in Anchorage, and ultimately went to
24 Providence Hospital at 9:28 on Saturday evening?

25 A. It's possible, yes.

1 Q. Okay. So given that frame, then, the
2 question is, do you recall anything about what you
3 did during the day on Saturday?

4 A. Slept.

5 Q. All right.

6 A. I was throwing up, sleeping, just -- just
7 sleeping.

8 Q. Okay. And the doctor that's indicated on
9 this sheet is Dr. Frank Moore.

10 Do you recall that name?

11 A. Yes.

12 Q. All right. Is that the doctor that saw you
13 at the emergency room at Providence?

14 A. Yes.

15 Q. How did you get to Providence?

16 A. My wife drove me.

17 Q. How long does it -- sorry, I'm backtracking
18 a little bit. How long does it take for a commercial
19 flight to get from Nome to Anchorage?

20 A. Ninety minutes, give or take.

21 Q. Is that air time?

22 A. Yes. It could take -- I do it a lot. So
23 it could be an hour and 30 minutes, it could be
24 longer, depending on -- on how they -- how much fuel
25 they use and how fast they are and what their load

1 A. -- you know, probably the --

2 Q. Okay?

3 A. -- 100 percent, yeah.

4 Q. You don't have any recollection of any
5 specific event, like going to a restaurant or a
6 sporting event, or shopping, or anything like that?

7 A. No. I was just sleeping and hoping it went
8 away.

9 Q. Okay. And so, then, at some point, you
10 decided to go to Providence Hospital, because you
11 wanted to be evaluated for these symptoms, correct?

12 A. Yeah, because they weren't going away.

13 Q. All right. And you saw -- you recall
14 seeing Dr. Moore at the emergency room?

15 A. Yes.

16 Q. All right. And do you recall what you
17 discussed with him? From memory, can you recall what
18 you discussed with him?

19 A. Not from memory, no.

20 Q. All right. And can you recall anything
21 that he told you, from your memory?

22 A. No.

23 Q. Would the medical records from Providence
24 be a better record of what happened, in terms of what
25 symptoms you presented with and what tests he did and

1 him.

2 MR. GUARINO: Let's add this to Exhibit 2.

3 (Exh 2 supplemented.)

4 BY MR. GUARINO:

5 Q. Mr. Helms, that's a record from Providence
6 Alaska Medical Center. It appears to be a medical
7 report from Dr. Moore. If you take a look at the
8 third page, he's the -- he's the doctor who is
9 indicated as having electronically authenticated this
10 record.

11 Take a look at the first page of that
12 record. It indicates the date is August 30th, 2008.

13 Do you see that?

14 A. Yes.

15 Q. And under HISTORY OF PRESENT ILLNESS, it
16 states, "The patient is a 48-year-old male who said
17 he awoke yesterday morning about 5:15 with pain in
18 his right eye, some slight pain into the right jaw
19 and he noted he had decreased vision in the left
20 visual field."

21 Now, first, in terms of the symptoms,
22 is that information correct, that those were the
23 symptoms that you noticed on the morning of August
24 29th?

25 A. Some of them, yeah.

1 Q. What treat --

2 A. Yeah, I don't know.

3 Q. Were you admitted to the hospital at
4 Providence?

5 A. I was.

6 Q. How long did you stay in the hospital?

7 A. One night.

8 Q. What treatment did you receive while you
9 were there?

10 A. They put me on some telemetry for -- you
11 know, to monitor the EKG and respirations. They gave
12 me my current medications. We had a discussion about
13 insulin and a particular type of cholesterol drug.
14 They chose a different type of cholesterol drug.
15 And, then, after the discussion on the insulin, that
16 was decided not to administer that.

17 Q. Did they give you any medications for --
18 specifically for the stroke?

19 A. I don't recall. I don't know.

20 Q. Did they give you TPA?

21 A. No.

22 Q. Was there any discussion about TPA?

23 A. Yes.

24 Q. What was discussed?

25 A. They said it was too long of a time to --

1 to administer that.

2 Q. And did they give you any indication as to
3 what the time period was that you would need to have
4 to be administered TPA?

5 A. Well, there was some discussion that
6 on the -- on the outside, it could be as much as four
7 hours or four and a half hours, but it was really
8 three hours.

9 Q. Three hours from what?

10 A. From the time that the symptoms began to
11 the time that they should -- they could administer
12 it.

13 Q. Okay.

14 A. And apparently there was literature and
15 discussions about using TPA after three hours, but I
16 think they said it's within three or four hours that
17 it --

18 Q. Okay.

19 A. -- and it -- and time, it really didn't
20 come down to the time, because so much time had
21 passed already, so...

22 Q. But you recall specifically a discussion
23 from them that there was a time window in which
24 TPA -- if you were going to use TPA, there was -- it
25 was -- there was a time limit on when it would --

1 Q. And how did --

2 A. -- misdiagnosed my stroke.

3 Q. Okay. So, well, let me ask you this: How
4 did he breach the standard of care?

5 A. He misdiagnosed my stroke.

6 Q. Okay. So he failed to properly diagnose
7 your condition; he should have diagnosed you as
8 having a stroke?

9 A. Yes.

10 Q. All right. Anything else that he should
11 have done?

12 A. Probably should have done a better
13 examination, so that he could diagnose it.

14 Q. And let's assume for the moment, assuming
15 he had diagnosed you with a stroke, what should he
16 have done, if he had diagnosed you with a stroke?

17 A. He should have immediately transported me
18 to a hospital that had a CAT scanner.

19 Q. And where would that hospital be?

20 A. It could have been Fairbanks, Anchorage or
21 Bethel.

22 And apparently Dr. Logan doesn't know about
23 Bethel having a CAT scanner.

24 Q. And so, if he had diagnosed you with a
25 stroke and wanted to -- he would have had to send you

1 somewhere else for further treatment?

2 A. Yes.

3 Q. Because Nome didn't have a CT scanner?

4 A. Correct.

5 Q. And if you had been transferred somewhere
6 else, your claim is, then, they could have done a CT
7 scan, and then you might have had the opportunity
8 to have TPA administered to you?

9 A. Provided the opportunity to --

10 Q. Okay.

11 A. -- yes.

12 Q. Is there any other treatment that you think
13 would have been provided to you, if you have been
14 transferred somewhere else?

15 A. I'd have to refer to the medical folks.

16 Q. All right.

17 A. But I guess that's the course of treatment,
18 to assist in someone that's having a stroke.

19 Q. Have you ever been involved in the medevac?

20 A. No.

21 Q. Do you know how long it takes to medevac
22 someone from Nome to another medical facility?

23 A. It depends on where they're going.

24 Q. Well, let's start with the candidates. If
25 you had to medevac someone from Nome to Anchorage, do

1 Q. Any further visits with Dr. Ellenson?

2 A. No.

3 Q. Any additional visits with Dr. Montesano?

4 A. One of his colleagues, for the same,
5 sciatica, that follows this record. It's -- I don't
6 even know if there is a record. It was a
7 prescription refill, so...

8 Q. All right. In your understanding,
9 Mr. Helms, if you had been diagnosed with a stroke by
10 Dr. Logan, and if you had been medevaced to some
11 other facility, and if you had gotten there within
12 the time period for the use of TPA, and if you were
13 an appropriate candidate, assuming all those --
14 making all those assumptions, as part of your claim,
15 is it your claim that, if you had been given TPA,
16 that you would have no visual deficit now?

17 A. I don't know the answer to that. I think
18 there was a possibility that what I suffer now could
19 have been remediated and reduced, if you will.

20 Q. Okay. So you don't know whether it would
21 have been cured, I mean, completely eliminated, you
22 think there's a possibility it might have been
23 reduced?

24 A. Right, I mean, I don't know. I'm not a --
25 I'm not a doctor.

1 Q. Yeah.

2 A. But, you know, it -- possible it could have
3 taken care of the whole clot and I wouldn't have a
4 problem. I don't know.

5 Q. Well, and that's why -- this is just -- I'm
6 not holding you, as a medical expert. You're not.
7 I'm just trying to get your understanding.

8 You don't know and can't say that -- that
9 giving -- if you had been given TPA, it would have
10 completely resolved all the problems; you don't know
11 that, correct?

12 A. I'm not a doctor. I don't know.

13 Q. Okay. All right. And to the extent you
14 think it might have helped, you're not able to say,
15 with any certainty, what percentage it might have
16 helped; how much it might have helped?

17 A. No. But doing nothing is 100 percent,
18 so -- or zero percent, in some game.

19 Q. Sometimes, yeah. But you can't testify to
20 that. That was something that a doctor would have to
21 testify to, in terms of what -- how likely it is that
22 TPA would help you, and if it would help you, how
23 much it would help you? That's not something you can
24 testify to?

25 A. I don't -- I'm not a doctor.